

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Digital Audio Broadcasting Systems)	MM Docket No. 99-325
And Their Impact On The Terrestrial)	
Broadcast Service)	
)	

To: The Commission

COMMENTS OF THE CORPORATION FOR PUBLIC BROADCASTING

The Corporation for Public Broadcasting (“CPB”) hereby submits these comments in response to the Further Notice of Proposed Rulemaking and Notice of Inquiry, released April 20, 2004, in the above captioned proceeding (the “FNPRM/NOI”).

CPB is a private, nonprofit corporation created and authorized by the Public Broadcasting Act of 1967 to facilitate and promote a national system of public telecommunications. Pursuant to its authority, CPB has provided millions of dollars in grant monies for support and development of public broadcasting stations and programming. *See 47 U.S.C. § 390 et seq.*

As an organization involved in supporting the development of public broadcasting stations and the creation and distribution of noncommercial educational programming, CPB supports policies that will encourage the conversion to digital audio broadcasting technology, but at the same time, allow stations to have maximum flexibility to meet the needs of their communities. CPB is charged by the Communications Act of 1934, as

amended (the “Act”), with ensuring that public telecommunications services are available to all citizens of the United States through all appropriate available telecommunications distribution technologies.¹ With its FNPRM/NOI the Commission is in a unique place to assist CPB, and the American public, in meeting this universal service mandate because the Commission is in the midst of greeting a “second dawn” of digital technology, this time in radio. CPB hopes that the Commission will use the lessons learned from the conversion to digital television, and take note of the experience of digital audio broadcasters to date, to craft policies for digital audio broadcasting that will best make the promise of digital service available to all Americans.

As an initial base, the Commission should require only that all radio stations broadcasting a digital audio signal provide a free over-the-air digital signal in addition to their simulcast free over-the-air analog broadcast service. Given the expanded capabilities of a digital signal, it should be of equal or greater quality than a station’s analog signal. However, beyond this baseline, the Commission should not establish rules that mandate certain types of transmissions during the transition to digital technology (*e.g.*, a high definition service requirement or a minimum number of audio streams).

The Commission already has adopted this approach in its policies for the transition to digital television broadcasting. In the digital television context, the Commission noted that adopting a baseline standard of service, but allowing individual stations the flexibility to assemble a package of services that will serve their local

¹ 47 U.S.C. §396(a)(9)

communities, promotes a number of objectives including innovation, local service, and public acceptance of digital technology.²

CPB supports over 750 public radio stations across the country, including, as directed by the Act, stations located in places where the public radio service is the only broadcast service available.³ Public radio stations provide programming in a wide variety of formats and are operated by over 350 different licensees, each with its own governing structure — universities, local and state governments, and local nonprofit community organizations are all licensees of public radio stations. CPB also supports multiple types of programming at these stations in English as well as in other languages. In many communities, public broadcasting stations are the last locally owned and operated broadcasting service available. CPB very well understands that such a diverse group of stations must be able to respond to their distinct needs and audiences with an array of services that meet the varying and unique needs of their communities. Moreover, public broadcasting stations are, by nature, profoundly local institutions that must have the flexibility to respond to local needs. A directive that mandates certain types of service is antithetical to this principle and contrary to the Commission's experience with directing the digital transition (in both television and radio) to date.

By limiting regulation to a minimum threshold, the Commission will empower stations to be responsive to their communities' needs. One way in which stations will be able to tailor their services to the varied needs of their communities is through multicasting. In the context of cable carriage of digital television signals, CPB has repeatedly joined in comments that extol the virtues of multicasting and the need for

² In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, Fifth Report and Order, 12 FCC Rcd 12809, paras. 26-44 (1997).

³ 47 U.S.C. § 396(k)(6)(B).

cable companies to carry all free over-the-air programming streams of local public broadcasting stations.⁴ Simply put, multicasting will allow public broadcasting stations (both television and radio) to better serve their communities.

CPB has been a major funder of the work National Public Radio (“NPR”) has carried out in its Tomorrow Radiosm project. NPR’s demonstration of the technical viability of multicasting will benefit all radio stations, commercial and noncommercial. Currently NPR member stations and other public radio stations are actively developing additional program service strategies to: increase the variety and quantity of programming available to listeners nationally; produce more local content; and tailor specific audio streams to identifiable segments of their listening audience. Furthermore, multicasting will allow local stations to provide additional services such as more detailed emergency, weather, and traffic information, increased programming in non-English languages, and coverage of local public affairs. In sum, multicasting will allow stations to increase manifestly their ability to serve the public interest, and the Commission should adopt policies that will allow stations the flexibility to do so in ways that are most appropriate to serve local needs and interests.

In the Notice of Inquiry section of the FNPRM/NOI, the Commission stated that it seeks comment on the extent to which it should become involved in prevention of indiscriminate recording and Internet redistribution of protected material that is part of digital audio broadcasts.⁵ As CPB has stated in the past, it supports reasonable and

⁴ See, for example, Ex parte Comments of Public Television, March 20, 2003, filed in CS Docket 98-120, In the Matter of Carriage of Television Broadcast Signals. This filing included descriptions of public television stations’ plans to use multicasting to provide a wide variety of public interest programming. See also Comments of the Association of Public Television Stations, the Corporation for Public Broadcasting and the Public Broadcasting Service, April 21, 2003, in MB Docket 03-15, In the Matter of Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television.

⁵ FNPRM/NOI at para. 69.

effective means of protecting digital programming from unauthorized and unfair copying and distribution on the Internet or by other means.⁶ However, given that digital audio broadcasting is just beginning, CPB believes that Commission action is premature at this time and could needlessly slow broadcaster, and ultimately consumer, adoption of this important new technology.

In conclusion, public broadcasting benefits from an investment of funds for over 35 years by the Federal government and the American public. The result of this investment is a variety of programming and services by locally owned stations that meet local needs. As the digital revolution begins its transformation of the radio industry, the Commission should use this opportunity to craft flexible policies that allow stations to determine the needs of their local audiences and to make the best and most appropriate use of new technologies in doing so.

Respectfully submitted,

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⁶ Joint Reply Comments of the Corporation for Public Broadcasting, the Association of Public Television Stations, and the Public Broadcasting Service, February 19, 2003, in MB Docket 02-230, In the Matter of Digital Broadcast Copy Protection.